

# **PROHIBITION ON EXPENDITURE OF PUBLIC FUNDS RELATING TO REFERENDA**

## **Prepared by State Elections Enforcement Commission, Hartford, CT**

### ***1. Spending Public Funds To Inform Citizens Regarding Referenda***

Historically, an “explanatory text” has been the exclusive method by which a municipality or regional school district could expend public funds for printing and distribution of an explanation of the subject matter of a referendum. Connecticut General Statutes §9-369b(a) sets forth the following conditions for such explanatory texts:

- (a) a vote of the municipality’s legislative body is needed to authorize it;
- (b) the municipal clerk must prepare the text and the municipal attorney must approve it;
- (c) it must specify the intent and purpose of each referendum; and
- (d) can not advocate either the approval or the disapproval of the referendum.

Pursuant to Public Act 00-92, effective October 1, 2000, materials in addition to the explanatory text may now be prepared and printed with public funds if they (1) do not advocate either the approval or disapproval of the referendum; (2) are authorized by vote of the local legislative body; and (3) are approved by the municipal attorney.

### ***2. Expenditure of Public Funds For Advocacy Prohibited***

With two exceptions discussed below, no expenditure of state, municipal or regional school district funds can be made to influence any person to vote for approval or disapproval of any referendum question. The ban applies when a referendum is pending.

### ***3. When is a Referendum Question Pending?***

A referendum question is pending when the necessary legal conditions have been satisfied to require the publication of the warning (notice) of the referendum. For example, a referendum is pending when a sufficient number of signatures have been certified by the Town Clerk under §7-7, General Statutes, or when the selectmen (or other authorized government official) have determined that a referendum will be conducted.

### ***4. Pro-Con Summaries***

By ordinance, a municipality may provide for the preparation and printing of concise summaries of arguments in favor of and opposed to a referendum for which an explanatory text is prepared under §9-369b(a). The ordinance must provide for a committee to prepare these summaries. See §9-369b(c), General Statutes for other conditions which must be satisfied.

### ***5. Press Releases and Constituent Responses Permitted***

The other exception is that an official can express his/her views on a pending referendum at a bona fide news conference, and may use public funds, facilities, and supplies to prepare a press release to be disseminated at the conference. Also, an official may use public funds, facilities and supplies to respond to a constituent request for information concerning the referendum, including the official’s views. The exception is lost however, if the official responds to the citizen’s request with the knowledge that the response will be disseminated to others in the community.

### ***6. Children in School as Couriers***

Children in school may not be used as couriers of information that advocates a position on a referendum. A notice limited to the time, place and question to be voted upon may be sent home to parents via children in school.

## ***7. Use of School Teachers, Administrators, Facilities, Supplies, and Equipment Prohibited***

The prohibition on state or municipal funds also applies to the use of school facilities, supplies, and equipment and postal permits to advocate a position on a referendum. For example, parent teacher organizations and school administrators may not use school equipment to prepare or copy advocacy material even if the town, regional district or school system is reimbursed for such use. This prohibition also extends to the use of a school's public address system to advocate a result of a referendum.

## ***8. Use of School Facilities by Outside Political Committees and Organizations For Meetings or Rallies***

School facilities may not be used by political committees or other groups for the purpose of advocating a position on a referendum unless such facilities are accessible to all such committees or groups on a non discriminatory basis. A charge can be made for the use of school facilities for this purpose and all groups or committees must be charged the same.

## ***9. What Constitutes Advocacy?***

A communication advocates a position on a referendum when in part, or taken as a whole, it urges the listener or reader to vote in a particular manner. The style, tenor and timing of a communication are factors which are considered by the Commission when reviewing alleged improprieties of §9-369b.

## ***10. Civil Penalties For Violations***

The State Elections Enforcement Commission may impose a civil penalty against any official who violates §9-369b(a), in an amount not exceeding twice the amount of the improper expenditure or \$1,000, whichever is greater. The official is personally liable for the penalty and cannot be reimbursed or indemnified by the state, regional school district or municipality for payment of a civil penalty.

## ***11. Political Committees to Promote Referenda***

Under Chapter 150 of the General Statutes, public officials and citizens alike may join together to advocate their views on a referendum by registering a political committee with the clerk of the municipality in which the referendum is to be held. Upon its registration, the political committee is permitted to solicit, receive and expend private funds to promote the success or defeat to a referendum question. If less than \$500 is expected to be collected or spent, a group may file a certification of exemption in lieu of a political committee registration form.

## ***12. Independent Personal Expenditures***

Any citizen or public official may independently (acting alone) make expenditures of his/her own funds to promote the success or defeat of a referendum question without forming a political committee in conformance with Chapter 150, Connecticut General Statutes.

The information contained herein is not exhaustive. If you have any questions concerning the enforcement of §9-369b, please contact the State Elections Enforcement Commission, 20 Trinity Street, Suite 101, Hartford, CT 06106-1628. (860-566-1776).